

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE

Call to Order: By **CHAIRMAN BOB KEENAN**, on April 3, 2001 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 105, 3/31/2001; HB 608,
3/31/2001; HB 57, 3/31/2001;
HB 273, 3/31/2001

Executive Action: HB 3; HB 4; HB 6; HB 8; HB
247; HB 395; HB 447; HB 489;
HB 490; HB 525

HEARING ON HB 105

Sponsor: REP. DICK HAINES, HD 63, Missoula

Proponents: Stewart Kirkpatrick, Manager GIS Services,
Information Services Division, Department of
Administration
Chris Smith, Chief of Staff, Fish Wildlife
and Parks
Jeff Miller, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REP. DICK HAINES, HD 63, Missoula, opened on HB 105, an act providing for the funding of local and state geographic data development projects and creating a geographic data development fund. He said projects would be funded partially by the fund created by the bill and partially by federal, private and local sources of matching money and administered by the Department of Administration. Money would go out as a grant or a loan approved by the Geographic Information Council.

Proponents' Testimony:

Stewart Kirkpatrick, Manager GIS Services, Information Services Division, Department of Administration presented testimony in support of HB 105. **EXHIBIT(fcs75a01)**

Chris Smith, Chief of Staff, Fish Wildlife and Parks, spoke in support of HB 105 on behalf of FWP and the Geographic Information Council. He stressed the importance of geographic information to Natural Resource Agencies and the decisions they make.

Jeff Miller, Department of Revenue, noted the department was keenly interested in the development of GIS data and the sharing of that data in regard to their responsibilities for property reappraisal. He indicated they were actively participating in the Cadastral Database Project. He thought the bill provided a stable ongoing source of funding, a centralized and coordinated administration, and encouragement of statewide standards. He encouraged support of the bill.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. TOM ZOOK asked about the source of funding in New Section 4 from bonds received from the Board of Investments.

REP. HAINES indicated the InterCap Board of Investment Bonds were the source.

SEN. ROYAL JOHNSON advised InterCap sold bonds. He asked if InterCap would sell bonds that would be put into an account for the program. **REP. HAINES** answered that was correct. **SEN. JOHNSON** asked what amount was anticipated. **REP. HAINES** said the bill originally was funded with \$50,000 from the general fund. He thought that amount would meet the need. **SEN. JOHNSON** asked if it was the intent of the bill to use the proceeds of the InterCap loan for bonds on a yearly basis. He asked about the source of ongoing funding. **REP. HAINES** advised there would be an effort between the Department of Revenue and the Board of Investments to get the bonds sold. The money would come to a fund being managed by the Department of Administration. **SEN. JOHNSON** informed **Mr. Kirkpatrick** that the Education and Cultural Resource Subcommittee funded a share of the project through the library. He wondered if the bill was for additional money for the project. **Mr. Kirkpatrick** deferred to **Jeff Brandt, Information Services Division**, who stated the bill would create a relatively small fund of \$100,000, with \$50,000 borrowed from InterCap. The money would be loaned out to state and local agencies for GIS projects unrelated to anything else in the budget. He explained that with all the federal land holdings in the state, the federal government had an interest in doing a number of GIS projects that often required a 1 to 1 match. The bill would provide loans to match the available federal funds. The money would be paid back to the fund, keeping the fund whole over time.

SEN. COREY STAPLETON asked about the difference between EIS and GIS. **REP. HAINES** explained that GIS dealt with maps for drainage or transportation systems, land ownership, water rights, or timber types. EIS was a process using satellites to locate a point. Both dealt with geography. **SEN. STAPLETON** commented that since satellite data already existed, would there be a demand for the services. **REP. HAINES** gave the example of DNRC laying out a timber sale. He said the map could be generated by computer. Sophisticated maps could be generated for use by the

DOR to show land ownership. He mentioned that GIS techniques were used when he was trying to get a good map of his district. It was found that several places thought to be in his district were not really in his district. **SEN. STAPLETON** asked if he envisioned that the Department of Administration would be a center or if the departments would be developed individually. He asked about the sunset provision. **REP. HAINES** said it would depend on the project and the agency involved. The DOA would coordinate the funding and make sure of the appropriate matching funds.

SEN. ZOOK asked how soil type could be determined electronically. **REP. HAINES** said he did not mean to imply it could be determined, but it could be plotted electronically. Tree species could be determined by aerial photographs, and mapped for timber sale purposes.

SEN. JOHNSON asked about the amendment on line 15 regarding proceeds from bonds received from the Board of Investments. **REP. HAINES** said the line was added in by House Appropriations. They tried to fund the project with a loan process instead of general fund. **SEN. JOHNSON** wondered where the wording for the amendment came from. **REP. HAINES** did not recall. He thought they relied to an extent on the advice of **REP. DAVE LEWIS**.

SEN. GREG JERGESON questioned the termination date, since loans would need to be repaid. He wondered if no projects were anticipated beyond the termination date. **REP. HAINES** said that was due to the original funding being from the general fund. If the project did not show a need, it would be brought to a halt. Outstanding loans would still have to be paid back.

SEN. CHRIS CHRISTIAENS asked about page 3, Section 6, line 16, which talked about the funding match. He asked for clarification from Mr. Kirkpatrick regarding the information he presented. **{Tape : 1; Side : B}** Mr. Kirkpatrick clarified that what was meant by a one to one ratio was up to a one to one ratio. Projects could be funded up to a 50 percent match if the federal government offered to share costs. He would expect the council to look favorably on a project requiring only a 15 or 20 percent match. **SEN. CHRISTIAENS** asked if loan repayment included interest.

Closing by Sponsor:

REP. HAINES closed on the bill. He advised GIS was becoming more of a tool by state and federal agencies. He said it was cutting edge technology and would be beneficial. He urged passage of the bill.

HEARING ON HB 608

Sponsor: REP. DICK HAINES, HD 63, Missoula

Proponents: Curt Chisholm, Department of Environmental Quality

Opponents: None

Opening Statement by Sponsor:

REP. DICK HAINES, HD 63, Missoula, opened on HB 608, saying the bill provided a procedure for recording non-monetary settlements paid to the state.

Proponents' Testimony:

Curt Chisholm, DEQ, advised HB 608 would correct a technical problem that DEQ and similarly situated agencies had dealing with penalty situations where part of the penalty collected was with non-monetary proceeds. The 1999 legislature required the value of a non-monetary penalty be booked into the same account where cash would be deposited, usually the general fund. The bill would create a non-federal, non-state, state special revenue account against which non-monetary proceeds could be recorded.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. JON TESTER asked how the value of non-monetary proceeds was determined. Mr. Chisholm indicated they followed EPA guidelines that allow for the negotiation of supplemental environmental projects. The monetary penalty cannot be reduced by more than 50 percent of the value placed on the penalty. The company cannot be allowed to do something they would be required to do anyway in order to comply with permit requirements.

SEN. JERGESON asked what was a non-state, state special revenue account. He wondered if the auditors had looked at that. Mr. Chisholm noted that the State Auditor's office and the Department of Administration, that oversees the fund structure, had looked at it. The DEQ was the first agency written up for failure to comply with the law and the technical problems with it. He explained the non-state, non-federal state special revenue accounts were where off-budget revenue could be deposited whether

it is monetary or non-monetary proceeds. That would give spending authority for that revenue as an off-budget, non-HB 2 issue.

Closing by Sponsor:

REP. HAINES closed on the bill advising the bill would result in a simple, straightforward process to make bookkeeping easier.

HEARING ON HB 57 AND HB 273

Sponsor: REP. RON ERICKSON, HD 64, Missoula

Proponents: Kate Cholewa
Judy Smith, Homeword
Sharon Hoff-Brodowy, Montana Catholic Conference
Mary Borchard, Montana People's Action
Jane Ragsdale, Montana People's Action
Roger Halver, Montana Association of Realtors
Steve Yeakel, Montana HRDC Directors Association
Betty Whiting, Montana Association of Churches
Tim Davis, Montana Smart Growth Coalition
Byron Roberts, Montana Building Industry
Association
Wendy Young, Working for Equality and Economic
Liberation
Kelly Pollington, Montana People's Action
Alana Mueller, Montana People's Action
Rebecca Holloway, Montana People's Action
Rhonda Carpenter, Montana Housing Providers
Mathew Rude, Montana Board of Housing

Opponents:

Opening Statement by Sponsor:

REP. RON ERICKSON, HD 64, Missoula, distributed a personal handout to each Senator detailing affordable housing in their districts. He explained HB 57 would transfer \$500,000 from Section 8 Housing into the Affordable Housing Revolving Loan Account. HB 273 would transfer \$3.5 million into the Affordable Housing Revolving Loan Account from general TANF. He asserted that money was already in HB 2. The second reason for HB 273, was that the revolving loan account as originally established did not imagine TANF money coming into it, and there was a need for language authorizing the use of TANF funds. The loan account would be allowed to loan money for construction and to folks to

buy a home. TANF monies do not allow for construction. HB 57 would put the money into the account and allow the money to be used for construction as well as loans for people buying homes. TANF money can be used for housing counseling and specific loans for folks buying their first home. A bill by **SEN. CHRISTIAENS** in 1999 set up the revolving loan account but no funds were put into the account. He recounted the work of the Tax and Revenue Interim Committee. He said that **SEN. MIGNON WATERMAN** found an administrative fund in Section 8 Housing that hadn't changed in about six or seven years with about \$3.6 million. She wondered if it could be used for housing in a revolving loan account. Originally, she wanted \$2 million, the interim committee decided on \$1.6 million, and in House Taxation Committee the amount was amended to \$500,000.

Proponents' Testimony:

Kate Cholewa, presented the testimony for **Ren Essene, housing developer, and Director of Homeword**. She noted it was not a new program, but would put money not being used in other areas into a loan program created in the 1999 session. HB 57 would create new housing stock and HB 273 would help families access the housing through low interest loans, rental assistance and home-ownership counseling.

Judy Smith, Homeword, spoke about the need in every community for affordable housing. She noted she represented a coalition effort. She advised that affordable housing was a priority in the state and that existing resources should be moved into a program to either build housing or get folks into housing.

Sharon Hoff-Brodowy, Montana Catholic Conference, testified that housing was a basic right on which family stability depended. She supported moving the money into the revolving loan fund.

Mary Borchard, Montana People's Action, said her organization worked to increase opportunities for affordable housing in Montana. She expressed support for HB 57 and HB 273. She contended home ownership was good for families and communities.

Jane Ragsdale, Montana People's Action, read the testimony of Kendal Wolcott. He recently became a homeowner for the first time in Billings with help from MPA and Homeword. Given his family size and income level, he never thought home ownership possible. He noted the benefits of home ownership and urged a yes vote on HB 57 and HB 273.

Roger Halver, Montana Association of Realtors, asked for support of HB 57 and HB 273. He felt that both pieces of legislation

provided a tool for low income families to get into housing. He described the housing shortage for low income people in Montana, which was especially acute in university areas. He advised that in other states with revolving loan accounts, the money going into the accounts had been leveraged up to seven times. He noted the account would be administered by the Montana Board of Housing, where there was a successful track record of administering such programs.

{Tape : 2; Side : A}

Steve Yeakel, Montana Human Resources Development Council Directors Association, advised affordable housing was a major concern. He urged concurrence with HB 57 and HB 273.

Betty Whiting, Montana Association of Churches, reported from a study by **Dr. Paul Miller, University of Montana,** of those using food banks in seven counties. The average income for those of FAIM was \$628 and those not on FAIM was \$738. Housing costs were \$271 and \$350 respectively. When utilities were included, housing costs were 62.7 percent and 86.1 percent of total income. Housing costs and food were the biggest obstacles for becoming self-sufficient. She gave examples of people who were homeless.

Tim Davis, Montana Smart Growth Coalition, reasoned that affordable housing was an essential part of any healthy community. He stated HB 47 and 273 would address that and urged support.

Byron Roberts, Montana Building Industry Association, advised there was a true housing affordability problem in Montana. He stated that since 1990, housing costs had doubled, lot costs had tripled, and salaries had remained relatively stagnant. In 1990, the Board of Housing financed 1 out of every 10 home purchases in the state. In 2000, they financed one out of every four. According to the Department of Housing and Urban Development, no more than 1/3 of income should be spent on housing. He noted Montanan had one of the highest rates of home ownership at 70 percent. For the other 30 percent, home ownership was virtually impossible. The average price of a new home last year in Montana was \$150,000 and going up. He advised government had traditionally been involved in assisting people with housing. He felt the money was appropriately spent in the revolving loan account and urged passage of HB 57 and 273.

Wendy Young, Working for Equality and Economic Liberation, testified housing provided stability, a sense of pride, and commitment to one's community and those were values they wished to promote. She urged passage of the bills.

Kelly Pollington, Montana People's Action, read testimony of **Mary Smith, Montana People's Action**, in support of HB 57 and 271. The bills would make home ownership affordable to more people in Montana, including those with disabilities.

Alana Mueller, Montana People's Action, supported HB 57 and 273. She stated she had an undergraduate degree and made low wages. She noted passage of the bill would make home ownership more possible.

Rebecca Holloway, Montana People's Action, testified there was not enough money available through Homeward to meet the need. She urged passage of HB 57 and 273.

Opponents' Testimony:

Rhonda Carpenter, Montana Housing Providers, testified she served on the Governor's Housing Task Force and supported the Housing Trust Fund. She also served on the Montana Board of Housing. She opposed HB 57. She advised of problems in the Section 8 program that had been solved. However, the federal government was no longer paying deposits and lead based paint tests were being required. She indicated the fund had grown from Section 8 grants, but that the program was starting to dip into the fund. Section 8 served 6000 families who were not potential home owners. She felt cutting into the administrative fund would jeopardize the Section 8 program. She built a case for the costs to landlords of slowing down the Section 8 process. She felt there were other sources of funding, such as Fanny Mae, to accomplish the goal of home ownership.

Informational Testimony:

Mathew Rude, Montana Board of Housing, advised they would be administering the loan program and would be available for questions.

Questions from Committee Members and Responses:

SEN. CHRISTIAENS stated there was \$3.6 million in the administrative fund and the federal government had stopped sending money to Montana. He asked if there was a spend-down requirement by the federal government. **Mr. Rude** said they were still getting federal funding on a yearly basis and there was no spend-down. He said the lead based paint requirements were the biggest issue; it was unclear how much money would be needed for training. **SEN. CHRISTIAENS** asked if the plan was to use some of the \$3.6 million for training purposes for lead based paint. **Mr. Rude** said inspections were required and inspectors needed to be

trained. **SEN. CHRISTIAENS** asked how much the fund had grown per year. **Mr. Rude** said it hadn't grown in about seven years and had been maintained at about the same level. He said the state got a certain amount of money from the HUD program to run its program and had stayed within those bounds for the last seven or eight years. Two years ago they took about \$300,000 or \$400,000 out of the fund and would take about that amount this year. **SEN. CHRISTIAENS** asked if taking \$500,000 from the fund would be harmful. **Mr. Rude** indicated it was unknown how many units would need to be re-furbished due to lead based paint. **SEN. CHRISTIAENS** asked if federal money would be available to assist in the lead based paint effort. **Mr. Rude** said it had not been earmarked and there was no specific dollar amount.

SEN. JOHNSON asked if the Board of Housing was charged with administering the revolving loan program but since there was no money in it up until now, if there was no experience with the program. **Mr. Rude** said that was correct. **SEN. JOHNSON** asked if the rules had been written for the program. **Mr. Rude** said they were not written yet. **SEN. JOHNSON** asked if they would have to be written differently than the rules under which other low income programs were operated. **Mr. Rude** allowed that there would be differences. **SEN. JOHNSON** asked if there was no problem with handling the program administratively within the Board of Housing. **Mr. Rude** advised they would not be doing the paperwork or loan servicing. That would be done at the local level with groups like the Homeward program.

SEN. CHRISTIAENS asked why the rules had not been written and adopted since the bill passed in 1999. **Mr. Rude** said it was partly because there was no funding in the account. He indicated the rules would have to be written differently because of the TANF. New construction could not be done with TANF money. Rules would have to be written specifically to funding type.

SEN. BILL TASH asked if the availability of the revolving loan account to tap into TANF had been addressed in the bill. He asked if there were amendments on either bill to address the concerns regarding Section 8 reserve funds or the transfer of TANF fund to be used in the revolving fund. **Mr. Rude** said he was not aware of any. **REP. ERICKSON** advised the fiscal note was for the bill as originally written. In the newest version of the bill, Section 1 line 19-21 solved the problem that was noted in technical note #1 in the fiscal note. He acknowledged that TANF funds could not be used for construction. He noted that .5 FTE would be needed.

SEN. JACK WELLS asked **Judy Smith** about the size of an apartment in Gallatin County with the average rent of \$531. **Ms. Smith** said the figures came from the Montana Consolidated Plan. She thought as an average, it probably included everything from one to three bedrooms. **SEN. WELLS** asked if a two bedroom with one bath would be average. **Ms. Smith** said that in Missoula, that amount of rent would be for less than two bedrooms. **SEN. WELLS** asked **Byron Roberts {Tape : 2; Side : B}** why housing costs had doubled since 1990. **Mr. Roberts** stated it was primarily due to land costs, regulatory costs, and infrastructure costs. He said housing costs had gone up commensurate with housing costs nationwide. As other things became inflated, housing costs became inflated. **SEN. WELLS** asked **Ms. Borchard** if **Montana People's Action** ever opposed property tax increases, impact fees or additional regulations that forced costs to go up. **Ms. Borchard** thought they did.

Closing by Sponsor:

REP. ERICKSON closed on the bills. He did not believe that the Fanny Mae money would make a difference to those with low income. He said that was not the way that money could be used. The revolving loan money could be used that way. He disagreed that the use of \$500,000 from the reserve fund would jeopardize the Section 8 program. He indicated that the next session would look at how the housing fund worked and whether more money from TANF could go into it. He was hopeful **SEN. JON ELLINGSON's** bill would put another source of funding into the revolving loan program. He said the \$500,000 was needed so that people could not only buy homes that were already built, but so that there could be construction. He agreed that one of the reasons housing costs were up was due to the cost of land. Inflation itself accounted for more than half of the increase. He said he liked the name for the TANF program, Families Achieving Independence in Montana, and suggested that one of the ways independence was achieved was when one had a mortgage and a place to live. He said home ownership brought citizenship, independence, and being part of the community. He urged passage of HB 57 and 273.

Clayton Schenck, Legislative Fiscal Analyst, advised there was language in HB 2 that shouldn't be there and should be in a separate bill. He said it was the last day to request a committee bill. He said that procedurally, that was what should be done. He said there was another issue, involving **SEN. GRIMES** suggestion for artwork for the Senate floor.

-9:40 recess -

-10:00 reconvene -

SEN. DUANE GRIMES, SD 20 Clancy, explained that HB 2 language would set up a special revenue account for donations.

EXHIBIT (fcs75a02) He said # 1 and #2 of the amendments would be stricken. He advised the concept for a commission to determine the feasibility of and commission of a work of art for the senate chambers was in #3. He explained that the painting currently hanging in the chambers was a reproduction of the Charles M. Russell painting "Land Before Time". The Historical Society did not allow the original painting to hang in the chamber due to security and smoking in the chamber. He contemplated a large original painting to hang there instead.

Discussion:

CHAIRMAN BOB KEENAN indicated that what **SEN. GRIMES** was trying to do was problematic and there was new information to be presented by **Lois Menzies**. **Ms. Menzies, Executive Director Legislative Services Division**, apologized that she had previously given **SEN. GRIMES** bad information. She said there was a deadline on that day to request a bill implementing provisions of HB 2. She thought the commission could be put into such a bill draft request. She forgot that there was no provision in HB 2 that could be implemented. There was not currently money in HB2 for the purpose of establishing a commission for a feasibility study. Therefore a bill could not be requested. She suggested a state special revenue account could be created by an agency and would not need to be appropriated if the purpose of the account was to expend donations. The project could go forward, donations could be collected and deposited into a newly established state special revenue account that was not appropriated and was expended for that purpose. There would be no formal structure created that would explain the composition and duties of the commission. She indicated the study resolution possibility was not a solution.

SEN. KEN MILLER asked **Ms. Menzies** why the oversight could not be done by the her department. **Ms. Menzies** thought that could happen if the Legislative Council wanted to take the project on.

SEN. MIGNON WATERMAN said she was a docent at the Historical Society when the Russell painting was purchased from the Montana Club for the Senate. She thought the Russell was a magnificent painting, smoking was not allowed any longer, and there were now temperature controls in the chamber. She favored asking the Historical Society for the original painting; they could have the replica, and the Senate could have one of the most magnificent paintings by Russell hanging in the Senate chambers. She did not think it presented security problems.

Carleen Layne, Montana Arts Council, advised the Arts Council administered public art into state buildings. She thought they would be happy to work on any project and would be available to help.

SEN. GRIMES agreed the original Russell would be magnificent but thought even the original would not be as grandiose as a larger painting. He thought a new painting would be an opportunity for public participation and a valuable investment.

SEN. WATERMAN advised the Russell was appraised at \$1 million when it was purchased. She found it hard to envision a commissioned painting that would have that kind of value.

SEN. GRIMES thought it could encourage tourism. He thought if language was included in HB 2 that would allow for the special appropriation and make reference to the commission, it would be up to the Legislative Council to implement the provisions of the law. The amendment could be considered on the floor.

SEN. BEA MCCARTHY asked about funds and security being available if the original Russell was put in place. **Ms. Menzies** said that was a question for the Department of Administration.

{Tape : 3; Side : A}

SEN. JOHNSON liked the idea of the original painting. He thought the money could come out of the Historical Society and Arts Council budgets. He said that for the last two years, they have tried to raise \$300,000 to complete the capitol reconstruction project. He thought that was where a fund drive was needed. Then a painting could be considered.

SEN. CHRISTIAENS indicated **Greg Petesch** had stated that the one percent for art in new state buildings also applied to remodeling. He thought that one percent should have been a part of the renovation of the capitol. **Ms. Layne** indicated that there was a negotiation process that goes on with Architecture and Engineering with all projects. The one percent approximated a reasonable amount. She said she would need to look at the law to be certain. She again stated the Arts Council would be available.

SEN. GRIMES closed on the issue. He thought it would be appropriate to have a new painting 100 years after the Russell was placed in the House chambers. He thought there might be some reciprocal benefits for the funding drive for the Capitol project. He encouraged taking up the amendment in executive action.

Mr. Schenck explained the HB 2 language issue (Exhibit 1) He recommended a language change that would request a study resolution.

SEN. JOHN COBB thought it was just a request and that the language could be left in. He thought the language could be removed in conference committee if necessary.

Discussion:

SEN. COREY STAPLETON asked if the issue had been seen before.

SEN. COBB explained the request got into HB 2 for OPI to look at budget flexibility and teachers' salaries. He said it was too late to do a resolution and favored leaving the language in place. He said it was just a request, not a mandate.

EXECUTIVE ACTION ON HB 3

Motion: **SEN. MILLER** moved that **HB 3 BE CONCURRED IN.**

SEN. MCCARTHY stated she had **SEN. DEBBIE SHEA's** proxy.

Motion: **SEN. JOHNSON** moved an **AMENDMENT FOR PAGE 3, FOLLOWING LINE 4, TO PROVIDE GENERAL FUND FOR THE UTILITY INCREASES ABOVE THE BUDGETED LEVEL FOR THE MONTANA UNIVERSITY SYSTEM BE ADOPTED.**

SEN. JOHNSON explained the amendment would allow the university system \$2,385,770 to cover increased energy costs for the current biennium. **EXHIBIT (fcs75a03) EXHIBIT (fcs75a04) -**

Discussion:

SEN. TOM BECK understood the amendment and the cost of natural gas. His concern was since the university system was supported by half general fund and half tuition, that the amendment should be for half the amount instead of the full amount. **SEN. JOHNSON** said they were trying to keep the tuition increase down. He acknowledged it was now about a 53/47 split and was about 50/50 for a long time. There were two options: raising tuition or the general fund. There was no way to raise tuition for those already in school and the amendment was for the current budget.

SEN. TOM ZOOK resisted the amendment, noting there would not be that amount of money in the ending fund balance. He contended that temperatures were never below zero during the past winter and he thought there should have been some savings for the winter of 1998 and 1999. He said the budget office had injected money for the coming year. He did not think they had that kind of money to expend in that area.

SEN. MCCARTHY asked if the amendment could be worded in such a way that if the money was not needed, it would revert to the general fund. **SEN. JOHNSON** said it could as it was an estimate for the coming months. He said the money would be spent either that way or in a supplemental, but that the university was entitled to have the state pay utility costs.

SEN. CHRISTIAENS thought the issue was to be revisited for all the state offices. He stated support for the amendment, but wondered what would be done with Corrections and other agencies.

SEN. STAPLETON had a concern with retroactive payments for the government.

SEN. JERGESON said HB 3 was a supplemental bill. All of the items in the bill were costs that were not anticipated by the previous session of the legislature, but had developed and were an obligation of the State of Montana. Last session it was budgeted for an increased cost for natural gas at zero and zero. No agencies were able to contain the increase in natural gas to zero and zero. The university could not raise tuition on existing students in the middle of a semester or eliminate any more positions. Those things were done before a request for a supplemental. The amount was for what was left.

CHAIRMAN KEENAN asked about the measures taken to meet the anticipated costs and whether the asked for amount was the full amount and above and beyond the remedies. **SEN. JOHNSON** said they were not trying to backfill anything beyond what they were paying or anticipating over the next six months for utility costs. The estimates were as close as could be figured. He affirmed that there was no inflation built in to the budget. He advised his personal gas bill more than doubled.

SEN. TESTER asked if the \$2.3 million reimbursed the campuses for the laid off employees and eliminated positions or was it actually what was needed. **SEN. JOHNSON** answered yes it was what was needed.

SEN. TESTER asked **SEN. ZOOK** if a supplemental would be a better way to address the problem. **SEN. ZOOK** said that would be his preference because of the ending fund balance. He said it could be addressed by a supplemental and some of the other needs could not be. It could be left to the conference committee where there would be more solid figures to make a better judgement of the issue. **SEN. TESTER** asked if there was an ending fund balance of \$40 million and there was still a \$2.3 million liability in the last biennium, then in essence there would not be a \$40 million ending fund balance. **SEN. ZOOK** said he was not hung up on \$40

million. It would not bother him if there was a \$40 million ending fund balance to address the issue. It would be singling out one part of government to deal with a problem that was across all government.

JON MOE, Legislative Fiscal Division, clarified that the amendment was a supplemental for the current year and could not be addressed in the 2003 supplemental.

SEN. JERGESON said it would be in error not to pay the supplemental and pay it in 2003. He addressed the backfill question and understood the supplemental wouldn't backfill.

{Tape : 3; Side : B}

Dr. Dick Crofts, Commissioner Higher Education, said the request was for utilities and not to recover the other things they did.

CHAIRMAN KEENAN asked for what the total would be. He wondered what was realized from the remedies if they were not backfilling. **Dr. Crofts** advised that the items listed were a variety of cost savings items taken to balance their budgets during the biennium. The budget balancing included the rising utility costs but it went far beyond it. He indicated no other state agency had layoffs or had not funded the pay plan. He said it was perfectly appropriate for the supplemental process. They would spend \$2.3 or \$2.4 million extra on utilities than was budgeting during the biennium. He thought if that was not a sound case for a supplemental he didn't know what would be.

SEN. STAPLETON asked if it was anticipated that other agencies would do the same thing. **Jane Hamman, OBPP**, indicated that **Budget Director Chuck Swysgood** told all the other agencies to eat the costs. There were hiring freezes, travel restrictions, and prior approval for purchase orders. Other agencies were absorbing the costs to the extent they could. **Dir. Swysgood** wanted to do what he could given the ending fund balance to try to make some adjustments. The university system had taken cost cutting measures. She did not have information on what the mitigated costs might be. **SEN. STAPLETON** asked if the budget office preferred this method for dealing with the university system. **Ms. Hamman** said she could not speak for the budget director on that point but knew he hoped to have some funding to be able to assist the university system to some extent before the session ended.

Vote: Motion **AMENDMENT TO PROVIDE FOR UTILITY INCREASES FOR UNIVERSITY SYSTEM** failed 8-10 with Christiaens, Jergeson, Johnson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.

Motion: SEN. JOHNSON moved an **AMENDMENT TO ALLOW THE COMMUNITY COLLEGES AND UNIVERSITY UNITS TO KEEP THE LAST BIENNIUMS' ENROLLMENT BASED REVERSION.**

Discussion:

SEN. MILLER contended the issue had been addressed several times. He pointed out the Senate had passed a bill for rolling three year averaging. His concern was that community colleges would not have that high a level of enrollments. He preferred the three year rolling average.

SEN. JOHNSON advised the three year rolling average would not help in the current biennium. He didn't like the bill for the rolling average at all.

SEN. JERGESON thought it needed to be kept in mind that reversions were handled differently for other agencies than with the university system. The university system reverted money based on a formula even if they didn't have the money. Other agencies revert money they haven't spent. When it comes time to manage their utility bills, their reversions were smaller because they ended up paying the utility bills with their reversions. The amendment was asking for the university system to be treated the same as other agencies. He thought the amendment was appropriate for the particular circumstance.

SEN. BECK wondered why it was in HB 3 and asked about the fiscal impact. **SEN. JOHNSON** replied it was between \$500,000 and \$700,000 with no impact on the general fund because they already have the money. They are being asked to send money back because they didn't get the same amount of students as anticipated. They are asking to keep the money this year to pay the utility bill.

SEN. ZOOK asked **Ms. Hamman** if the reversions were counted in the reversion projections or not. **Mark Rude, OBPP**, indicated they had already been taken off the balance sheet.

SEN. BECK said they knew there was a list of reversions and asked if those were included. **Mr. Rude** didn't know.

Mr. Moe explained that to whatever extent that reversions do not occur, it would affect the ending fund balance for the current year and the beginning fund balance for the next biennium.

SEN. JOHNSON asked what number was used for the reversions. **Mr. Moe** did not know.

SEN. JERGESON advised the reversions from the university system were not included in the general fund status sheet at that point. Those numbers were not generated until very nearly the end of the session and then were reported. **SEN. ZOOK** asked if that would be the case with a number of reversions. **SEN. JERGESON** said that for all the other agencies, there was simply an estimate of what agencies were not able to spend in their budgets. Those numbers were included in the general fund status sheet, but the university reversions were not. **SEN. ZOOK** thought those should be the easiest reversions to calculate as they should have their enrollment figures.

Vote: Motion **AMENDMENT REGARDING REVERSIONS FOR THE UNIVERSITY SYSTEM** failed 8-10 with Christiaens, Jergeson, Johnson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.

Motion: **SEN. JERGESON** moved an **AMENDMENT TO HB 3 PAGE 3 LINE 6 TO DECREASE THE AMOUNT FOR SECURE FACILITIES TO \$3,450,000.**

SEN. JERGESON said the reason he did this was to assure the bill would go to conference committee. Without any amendments from the Senate at all, there was no way to enable the budget director and the leadership to come up with reasonable amounts.

Discussion:

SEN. MILLER asked what would happen if they passed it and the House accepted it. **SEN. JERGESON** said the number could be taken anywhere else, but that one was a round, even number.

SEN. JOHNSON expressed nervousness at what would happen in the conference committee or in the House. He thought that with a couple of amendments cutting the director's office or Health Policy and Medicaid Services, the bill might come back pretty rapidly and it would assuredly go to conference committee.

SEN. WATERMAN suggested adding money would assure the bill would come back. She pointed out that on page 3, the Historical Society had originally requested \$350,000 to catalog the materials that came from the state-wide officials whose terms ended. She contended more than \$20,000 was needed. To store the boxes had no value; the value was that the records be catalogued to be used for research and study. She thought a substitute amendment to put some money in would assure the bill would get into conference committee.

SEN. ZOOK thought the Senate had a great advantage on bills. If the bill was in the desired form, it couldn't be changed in conference committee because it took the votes of the members

from the Senate to agree to any change. He believed the bill should be sent out in the form the committee wanted it.

SEN. JOHNSON did not think **SEN. WATERMAN's** amendment would pass, and an amendment was needed if they wanted it back. He agreed with **SEN. ZOOK** that when a sponsor or a group got a bill in the form they liked, it probably should be left in that form. Normally that was not done, but he thought HB 3 was in better form than he'd seen for a long time.

SEN. JERGESON reiterated that without some amendment of some kind that the House could reject, the bill would not even go back to the House. It would go straight to the governor without any opportunity for the legislature to adjust any of the numbers. An amendment was needed as a place holder for the Senate to be empowered.

SEN. BECK asked **SEN. ZOOK** if it was generally correct that the supplemental bill in HB 2 was normally left open for conference committees just in case there was something that absolutely needed to be done. **SEN. ZOOK** did not remember it that way. At times the supplemental bill had been hurried through when DNRC had expended funds for fire costs. **SEN. BECK** said one supplemental had been put through to address DNRC. He was not much in favor of **SEN. JERGESON's** amendment but indicated he would be willing to put \$5000 in Libraries and Archives to keep the bill open. He thought there might be something from the budget office that would have to go into the bill.

Motion: **SEN. BECK** moved **A SUBSTITUTE MOTION TO ADD \$5000 TO PAGE 3, LINE 4.**

He said that would be adding on to the budget and the House would reject that.

Vote: Motion passed 16-2 with Cobb and Miller voting no.

Motion/Vote: **SEN. WATERMAN** moved that **HB 3 BE CONCURRED IN AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 4

Motion: **SEN. KEENAN** moved that **HB 4 BE CONCURRED IN.**

Amendments from the budget office were passed out.

EXHIBIT(fcs75a05) **EXHIBIT(fcs75a06)**

CHAIRMAN KEENAN advised they were dealing with the revised amendments (Exhibit 5).

Motion: SEN. BECK moved REVISED AMENDMENTS TO HB 4.

SEN. CHRISTIAENS asked about amendments #5 and #6 regarding newborn hearing screening. SEN. WATERMAN clarified that her bill allowed a one-time expenditure for rural hospitals to get equipment and was funded from the Montana Telecommunication Network Fund. There was no money in her bill if the child had a hearing problem. The amendment would fund a tracking system and provide hearing aids through federal grants.

{Tape : 4; Side : A}

Vote: Motion that REVISED AMENDMENTS TO HB 4 BE ADOPTED carried unanimously.

Motion/Vote: SEN. WATERMAN moved that AMENDMENT TO HB 4 BE ADOPTED. Motion carried unanimously.

Motion/Vote: SEN. WATERMAN moved that HB 4 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 6

Motion: SEN. TESTER moved that HB 6 BE CONCURRED IN.

Motion: SEN. WATERMAN moved that HB000640.ABM BE ADOPTED.
EXHIBIT(fcs75a07)

Motion/Vote: SEN. WATERMAN moved that HB000605.ABM BE ADOPTED.
Motion carried unanimously. **EXHIBIT**(fcs75a08)

Motion: SEN. MILLER moved that HB000601.AJM BE ADOPTED.
EXHIBIT(fcs75a09)

SEN. MILLER advised the amendment moved Laurel above the cut-off point. He said he talked to John Tubbs, DNRC, who suggested reducing the \$300,000 to \$200,000 on page 1, line 21. He contended that the research on high salinity could be used in coal bed methane research and at Yellow Bay.

SEN. WATERMAN asked what the effect would be of lowering the money for planning grants. Jane Hamman, OBPP, said the funds were used for pre-engineering studies and assistance to local communities to get ready for the next legislative session. SEN. WATERMAN spoke against the amendment. She contended in the past there were projects below the line that made it and that the planning money was crucial.

CHAIRMAN KEENAN asked SEN. TESTER if there was a final number for the funding line on HB 6. SEN. TESTER explained the funding line

was right below Charlo, and above the city of Laurel. There would be funds available for Laurel if a project dropped out. He doubted there would be more in the RIT than what was there, but that was also a possibility. He advised the planning money was important because Long Range Planning decides ranking based on reasonable plans.

SEN. BECK said his experience on Long Range Planning was that there was usually enough carry over that the city of Laurel would get the project done in the interim.

SEN. MILLER said he was willing to segregate amendment #2.

SEN. WATERMAN asked if he would be willing to change #2 to the actual amount requested.

SEN. ZOOK agreed with **SEN. BECK**.

Motion: **SEN. MILLER** moved **SUBSTITUTE MOTION TO STRIKE AMENDMENT #1 AND SEGREGATE AMENDMENT #2**.

Vote: Motion **SUBSTITUTE AMENDMENT** carried unanimously.

Motion/Vote: **SEN. KEENAN** moved that **HB 6 BE CONCURRED IN AS AMENDED**. Motion carried unanimously.

EXECUTIVE ACTION ON HB 8

Motion: **SEN. MILLER** moved that **HB 8 BE CONCURRED IN**.

SEN. CHRISTIAENS asked about SB 198 and holding HB 8. **SEN. TESTER** advised SB 198 was tabled and not anticipated to come off.

Vote: Motion that **HB 8 BE CONCURRED IN** carried unanimously.

EXECUTIVE ACTION ON HB 247

Motion: **SEN. SHEA** moved that **HB 247 BE CONCURRED IN**.

SEN. JERGESON noted that on some of the other bills, there was a concern with the ending fund balance. He asked if there was equal concern with the ending fund balance on this bill and how consistent the committee was going to be.

Vote: Motion that **HB 247 BE CONCURRED IN** passed 13-5 with Beck, Christiaens, Jergeson, Waterman, and Zook voting no.

EXECUTIVE ACTION ON HB 395

Motion: SEN. CHRISTIAENS moved HB 395.

Motion: SEN. CHRISTIAENS moved that HB039503.ATP BE ADOPTED.
EXHIBIT(fcs75a10)

SEN. CHRISTIAENS indicated he knew some did not like the method of funding, but he felt the purpose of the research and commercialization trust fund was for development. He thought the university system was a good place for development. He said it was one-time funding only. He would be open to the funding coming from general fund.

CHAIRMAN KEENAN thought the bill might be a conference committee bill with the amendment.

SEN. MCCARTHY objected to the amendment saying the funds and projects had been well scrutinized by those who worked through them. She thought taking the amount of money would throw the whole project out of whack.

SEN. WATERMAN advised she struggled with the whole issue of the dental hygiene clinic and the proposed funding. She said federal money was available for the dental hygiene clinic but those dollars were used to bring down national science foundation grants for research at the university system. She would support the funding coming from the general fund.

Motion: SEN. JERGESON moved a SUBSTITUTE MOTION TO APPROPRIATE \$119,683 FROM THE GENERAL FUND.

SEN. JERGESON advised it would be an ongoing program that would be costly beyond the standard amount that tuition would generate and the standard amount of student FTE that the state contributes towards most programs in the university system. He thought the committee should step up to the plate and acknowledge it was a good program with ongoing costs coming from the general fund.

SEN. MCCARTHY spoke in favor of SEN. JERGESON's amendment. She stated that during the interim, the dentists and dental hygienists came to the Education Subcommittee to request funding for the program. She indicated they raised over \$50,000 internally to get the program started. The dental hygiene program at Carroll College was lost because the university system could not fund it or take it over. The closest program was in Wyoming, and there were not enough graduates to fill positions.

Vote: Motion SUBSTITUTE MOTION passed 12-6 with Crismore, Miller, Mohl, Stapleton, Wells, and Zook voting aye.

Motion/Vote: SEN. KEENAN moved that HB 395 BE CONCURRED IN AS AMENDED. Motion carried 15-3 with Stapleton, Wells, and Zook voting no.

EXECUTIVE ACTION ON HB 447

Motion/Vote: SEN. MILLER moved that HB 447 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 489

Motion: SEN. MCCARTHY moved that HB 489 BE CONCURRED IN.

SEN. MCCARTHY passed out a fact sheet. **EXHIBIT(fcs75a11)**

CHAIRMAN KEENAN advised the bill had an unknown general fund impact and through the discussion \$258,000 was arrived at.

SEN. JERGESON advised his concern with those types of fiscal notes. He thought it appropriate that it be carried on the general fund status sheet as \$258,000 to avoid a hole in the ending fund balance.

CHAIRMAN KEENAN noted the estimated amount of tax credit total in the second column was \$1.577 million.

SEN. ZOOK thought it posed a problem to put down the estimated amount of tax credit on the status sheet. He thought the revenue estimate from the next column should be used as well.

SEN. JERGESON said the second column would be in the realm of dynamic modeling which was not used to estimate revenue. The liability to draw from the general fund ending fund balance was represented in the second column.

SEN. ZOOK did not see how one estimate could be accepted and not the other.

Evan Barrett, explained the chart was put together to discuss the existing loans not in the program, some of which were using tax credits and some of which were not. Job impacts were also thrown in. He said it didn't necessarily reflect anything to do with the existing bill because the bill was about prospective things.

SEN. JOHNSON asked for clarification regarding projects. Mr. Barrett explained the chart showed four projects, two of which were amortized over three years, one over seven and one over twenty. Job production was shown in the chart. Some of the companies would probably choose to move their tax credits forward

rather than sell them at a discount. He believed SB 489 would be about future transactions. **SEN. JOHNSON** asked about the past transactions for the four projects, and which ones might be used currently. **Mr. Barrett** thought that the MSE/Mariah was just being concluded and Wells Fargo had not started yet. Stream International and ASiMI had been making amortization payments and had not used tax credits yet. **SEN. JOHNSON** asked if those tax credits were immediately available. **Mr. Barrett** said they were available under current law.

CHAIRMAN KEENAN asked about the accuracy of the fourth column of the net to the general fund over 4 years being \$86,000. **SEN. JERGESON** said it was not accurate. He said the number may or not materialize in the income tax collection estimation that was in HJR 2. It was either already there or if those estimates were wrong it will be found out in the future. They could not be subtracted in a fiscal note on HB 490; all that could be done would be to include some measure of what the expenditure or reduced revenue was as the effect of the bill.

SEN. ZOOK said that was why the fiscal note showed the fiscal impact was unknown. He did not want to be in the position of making an estimate. He advised the fiscal note also said that new businesses might not have a positive taxable income the first few years.

{Tape : 4; Side : B}

Vote: Motion HB 489 carried 11-7 with Crismore, Jergeson, Johnson, Mohl, Tash, Waterman, and Zook voting no.

EXECUTIVE ACTION ON HB 490

Motion: SEN. SHEA moved that HB 490 BE CONCURRED IN.

SEN. SHEA passed out information. **EXHIBIT(fcs75a12)**

Mr. Barrett explained the handout. He said the general fund interest loss was shown in the second column from the right. The chart showed a net gain to the general fund.

Vote: Motion HB 490 failed 9-9 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Stapleton, Tester, and Wells voting aye.

Motion/Vote: SEN. ZOOK moved that HB 490 BE TABLED. Motion carried 16-2 with Jergeson and Shea voting no.

EXECUTIVE ACTION ON HB 525

Mr. Moe passed out an amendment HB052501.ajm **EXHIBIT(fcs75a13)**. He explained the amendment was prepared by the Legislative Fiscal Division and the purpose was to clarify on page 3 line 20, that it was the last calendar year beginning in the current biennium.

Motion: SEN. WATERMAN moved HB 525 AND HB052501.AJM.

Vote: Motion that HB052501.AJM BE ADOPTED carried unanimously.

SEN. STAPLETON opposed the bill. He advised Montana had one of the weakest governors of all the states from an institutional standpoint. He believed a strong executive was needed whether on a national or state level. He thought the governor should be able to put a budget out, and the budget adjusted by the legislature. He had a concern with the 2/3 vote and limiting what the governor could propose.

SEN. JERGESON advised he saw problems with the bill and had looked at ways to fix it. He cited page four where some things would be excluded from the budget. He said the Legislative Fiscal Analyst would be required to maintain two budgets, that which was constitutionally mandated to adopt and the one in the bill. HB 124 was a massive statutory appropriation from the general fund. A two-third vote could be required for base budgets and present law adjustments for everything else. He said it was a good effort by **REP. DAVE KASTEN**, but ought to be voted down.

SEN. WATERMAN thought there was a real constitutional question. She said the executive could not present a budget. She thought if the executive challenged the bill, they would win.

SEN. WELLS said the bill was not saying a budget could not be presented, but that the budget needed to be within certain limits or guidelines. He thought it would make the job of the legislature easier.

Vote: Motion that HB 525 BE CONCURRED IN AS AMENDED failed 2-16 with Mohl and Wells voting aye.

Motion/Vote: SEN. MCCARTHY moved that HB 525 BE TABLED. Motion passed 17-1 with Wells voting no.

EXECUTIVE ACTION ON HB 608

Motion: SEN. MILLER moved that HB 608 BE CONCURRED IN.

SEN. JERGESON said he would support the bill but still questioned non state, state special revenue fund.

Vote: Motion **HB 608** carried unanimously.

ADJOURNMENT

Adjournment: 11:55 A.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT (fcs75aad)